

# COUNTRY REPORT NETHERLANDS 2008

## 1. Economic and Financial Background

Table 1: Key economic and financial indicators		
	2005	2006
Population (million)	16.3	16.4
GDP (EUR billions)	506	528
Real GDP growth (%)	1.5	2.9
Inflation rate (%)	1.7	1.2
Unemployment rate (%)	6.5	5.5
Stock market capitalization (EUR billions)	691	812
Stock market capitalization (% of GDP)	136.6	153.8
Bond market capitalization (EUR billions)	-	-
Bond market capitalization (% of GDP)	-	-
Household gross savings ratio (%)	-	-
Household financial wealth (EUR billions)	-	-
Average per capita financial wealth (EUR)	-	-

## 2. Data on funds under management and portfolios

Table 2: Net assets by the fund industry in the Netherlands (EUR billions)					
	2002	2003	2004	2005	2006
Home-domiciled UCITS	65.52	73.42	74.61	80.03	82.49
Home-domiciled non-UCITS	13.66	13.80	14.19	15.77	19.36
<b>Total AuM</b>	<b>79.18</b>	<b>87.21</b>	<b>88.80</b>	<b>95.80</b>	<b>101.85</b>

Table 3: UCITS assets by fund type (EUR billions)					
	2002	2003	2004	2005	2006
Equity	31.35	34.53	33.47	39.17	43.46
Bond	14.58	18.40	19.54	16.62	15.30
Balanced	8.94	9.13	9.98	10.85	11.07
Money Market	1.09	1.34	1.34	1.36	1.69
Fund of Funds	-	-	-	-	-
Other	99.56	10.02	10.28	11.99	10.97
<b>Total</b>	<b>65.52</b>	<b>73.42</b>	<b>74.61</b>	<b>79.99</b>	<b>82.49</b>

Table 4: Assets of other nationally regulated funds (EUR billions)					
	2002	2003	2004	2005	2006
Real estate	13.663	13.796	14.188	15.774	19.391
<b>Total</b>					

Note: There are no separate data sets on hedge funds (of funds), due to the difficulty in defining what is and what is not a hedge fund.

### 3. Key Trends in flows and assets under management

Table 5: Net sales of investment funds in the Netherlands (EUR millions)					
	2002	2003	2004	2005	2006
Home-domiciled UCITS	4,867	3,515	-2,078	-5,758	108
Home-domiciled non-UCITS	-2,641	-68	-343	99	248
<b>Total net sales</b>	<b>2,226</b>	<b>3,447</b>	<b>-2,421</b>	<b>-5,659</b>	<b>356</b>

Table 6: Net sales of UCITS by fund type (EUR millions)					
	2002	2003	2004	2005	2006
Equity	1,403	465	-3,954	-3,087	509
Bond	1,593	2,458	790	-3,238	13
Balanced	942	-13	503	-300	17
Money Market	-230	216	4	58	377
Fund of Funds	-	-	-	-	-
Other	1,159	389	579	809	-808
<b>Total</b>	<b>4,867</b>	<b>3,515</b>	<b>-2,078</b>	<b>-5,758</b>	<b>108</b>

Table 7: Net Sales of other nationally regulated funds (EUR millions)					
	2002	2003	2004	2005	2006
Real estate	-2,641	-68	-343	98	232
➤ Open-ended funds					
➤ Closed-ended funds					
➤ REITS					
Alternative management					
➤ Hedge funds					
➤ Funds of hedge funds					
Special funds					
Other					
<b>Total</b>					

Note: There are no separate data sets on hedge funds (of funds), due to the difficulty in defining a 'hedge fund'.

Table 8: Number of funds					
	2002	2003	2004	2005	2006
Home-domiciled UCITS	566	593	542	553	468
Home-domiciled non-UCITS	45	44	44	62	74

Note: The increase in home domiciled non-UCITS from 44 in 2004 to 74 in 2006 is largely due to new supervisory rules. In the past real estate funds with a temporary license (they only needed a licence for the initial public offering period) were not registered and therefore not counted in the statistics. The phenomenon of a temporary licence does not exist any more and therefore, this type of funds falls under regular supervision and is counted.

#### 4. Regulatory and self-regulatory developments (including tax)

##### Asset pooling and pensions

Together with the newly cast Financial Supervision Act (*Wet financieel toezicht*) a new law on pensions, implementing the Occupational Pensions Directive (IORP) entered into force on 1<sup>st</sup> of January 2007.

A recent development attracting more asset management and service providers to the Dutch market, is the recent upgrading and promoting by the Dutch Ministry of Finance of the Dutch Fund for Joint Account or in short: "FGR". Recent tax reforms in the Netherlands (i.a. the abolishment of capital taxes) have made it into a strong international competitor for the Luxembourg FCP and the Irish Common Contractual Fund (CCF).

The Dutch FGR is an excellent vehicle for full tax transparent cross border asset and pension fund pooling. In view of the Occupational Pensions Directive, the marriage of the FGR with the long term Dutch expertise on managing pension funds' liability driven investments (LDI), pension administration and communication expertise, offers great opportunities to multinational companies looking for more efficiency in their cross border retirement provisions. Prominent examples of companies using already the FGR for creating more scale efficiencies in investment management, administration, custody and improving on operational risk management for their worldwide investment portfolios, are SHELL and AEGON. The FGR can offer flexibility by using several feeders in line with the master pooling vehicle in order to match different objectives of the pension funds' sponsors, without losing control over LDI. Asset pooling can also allow multinationals to market their schemes as local products, while managing their assets on a global level. A centralized FGR management can assure compliance with local regulations and avoid discriminatory taxation on cross border contributions and payments to and from feeders to beneficiaries.

In promoting The Netherlands as a financial services centre in Europe, the Dutch Ministry of Finance has now opened up a counter for any questions on tax issues with third countries that interested parties on the Dutch market might have. The Finance Ministry could help solve problems that might occur when FGR structures are created for a company, a pension fund or an asset manager. The Dutch Ministry of Finance will assist you to defend the tax transparency of a FGR with its tax treaty partners. The counter is also open for any other questions companies might have when assessing to establish themselves in The Netherlands.

##### Fund Service

The system for trading in Dutch funds has been simplified and rationalized. The trading in Dutch funds is fully harmonized with the daily practice in other European countries. However, instead of using expensive transfer agents, Dutch open-ended investment funds are now cleared and settled against daily calculated NAV prices by Euronext, via a new system developed with DUFAS, the so-called 'Euronext Fund Service'. It is an innovative service for the fund market, facilitating open architecture by providing an order book, open for all financial institutions, guaranteeing execution of orders against Net Asset Value based pricing and straight through processing ('STP') settlement according to the international securities markets standards. The funds are not traded on the stock exchange floor, but in an ingenious way make use of the common infrastructure and features of the Euronext stock exchange for order execution through a special funds' platform. Euronext will introduce the 'Euronext Fund Service' also in other European countries where it is based.

The Euronext Fund Service is based upon a forward pricing system that was introduced as self-regulation by DUFAS, thus implicitly both preventing market timing and late trading possibilities and bringing full price transparency for fund investors. The Dutch fund market has chosen for a cut-off time of 04.00 PM for fund orders that are executed at 10.00 AM on the next trading day, but alternative timing is possible. The Dutch supervisor for the financial markets (AFM) fully endorses this new fund market model and approved of it with great enthusiasm.

### **New Dutch tax exempted investment fund (VBI)**

Early 2007, the introduction of the new tax exempted investment fund VBI (*Vrijgestelde Beleggingsinstelling*) was introduced in Dutch legislation. The VBI is tailored to facilitate cross border marketing of UCITS. The aim is to put Dutch funds on a level playing field with their direct European competitors, mainly from Luxembourg and Ireland. The VBI offers a neutral international tax structure, opposite to the already existing alternative fiscal fund status 'FBI' (*Fiscale beleggingsinstelling*) for which there are certain restrictions, inter alia shareholder requirements, withholding tax on dividends, leverage restrictions and the obligation to pay out profits by way of dividend.

### **Capital Requirements Directive**

The CRD was implemented in legislation that entered into force on the 1<sup>st</sup> of January, 2007. It represents no significant change compared to the rules in place before implementation of the Basel 2 Directive.

### **MiFID implementation:**

The MiFID directive has been implemented in the new Financial Supervision Act (*Wet financieel toezicht*), which entered into force on January 1, 2007) and a Royal Decree called the *Besluit gedragstoezicht financiële ondernemingen (Bgfo)*. The Dutch legislator has implemented some small remainders by November 1, 2007.

### **Key investor information**

In The Netherlands all investment products, funds but also insurance or bankers' investment products, have to publish their key investor information on a 'two pager', containing all information regarded as essential for consumers. Financial institutions have to give notice of this investor information on their websites. As of January 1, 2007, the key investor information should contain in its documentation a so called 'Risk Indicator' developed by mathematicians of one of the specialized Dutch universities. The obligatory template as well as the method for calculating it can be downloaded at [www.afm.nl](http://www.afm.nl). Each foreign fund marketed in The Netherlands, has to comply with these rules too. Nevertheless, the simplified prospectus of a foreign (UCITS) fund marketed in the Netherlands is accepted as the key investor information and has to be provided in the Dutch language. DUFAS provides (Dutch language) guidance on how to make such a document. This condensed essential fund information package is now followed-up by the European Commission with the development of the UCITS IV topic for 'Key Investor Documentation' (KID).

### **Adequate supervision/designated countries**

The Dutch take a very liberal approach towards foreign funds if they have their home in a country, which has an 'adequate supervision' in the eyes of the Dutch Minister of Finance. Funds from designated countries are treated in a similar way as foreign UCITS and can be offered on the Dutch market, apart from notification, required only to provide investor information equal to the standards of Dutch based funds. The status of 'designated country' can be attained by request of your local supervisor to the Dutch Minister of Finance. Luxembourg, Ireland, the USA, Jersey and Guernsey, so far are recognized as designated countries. In connection with a sound tax environment and the liberal rules of the Euronext Amsterdam stock exchange, this 'designated country' regime is one of the good reasons for hedge fund managers for having listings in Amsterdam. The Dutch government in this respect strives to negotiate some kind of reciprocity in recognizing retailfunds. There is an active policy of improving the Dutch market place as an attractive domicile for investment funds.

### **Fund licensing**

Fund managers have long complained about the lack of level playing field with banks and insurance companies, also offering investment products to the public but without any requirement for prior approval of the product. The old fund regulation required a long licencing period for each and every new fund introduced to the public. This system is still fashionable in many countries. The Netherlands introduced a new fund regulation already back in 2005, in which under the licence at the level of the fund manager, it is possible to introduce new funds on the market without having to go through a lengthy approval procedure. Special 'fund-licensed' external auditors have to certify to the supervisor, that the funds' prospectus is in full compliance with all legal requirements, after which the new fund is registered and authorized by the supervisor. Time-to-market for new fund product introductions, including UCITS, to a great extent now is up to the fund manager

himself and not depending on the often lengthy regulator's time frame for granting authorization to a fund. New fund introductions only require a two weeks prior notice to the Dutch supervisor AFM<sup>1</sup>. This is the closest as one can get to banking and insurance product authorizations, given the different nature of fund licensing in Europe. Once a new fund is introduced on the market, the Dutch supervisor AFM exercises an adequate operational supervision on the fund to warrant legal safeguards for the public.

### **Fund governance**

By way of self-regulating, in 2007 DUFAS developed an adequate structure for the governance of funds and fund management organizations. As there is no 'one size fits all' model for governance, DUFAS allowed for several governance options as have been identified worldwide as common governance solutions. Thus, fund managers can implement governance structures, best tailored to their organization. The DUFAS fund governance code also comprises of principle based rules for dealing with conflicts of interest within asset management organizations. The DUFAS fund governance rules were approved of by the Dutch government. Similar principles are developed currently by CESR under the new risk management procedures for UCITS.

## **7. Product developments: structured products**

According to a recent study by the Authority for Financial Markets (*Verkennde Analyse Gestructureerde Producten*, May 2007) the Dutch retail market for **structured products** has grown from € 3 billion in 2003 to € 30 billion in 2006 and one third of all Dutch private investors have one or more structured products. The Netherlands take a liberal regime approach to structured products and alternatives: there is no specific regulation for offering structured notes and alternatives (hedge funds) to the public. Therefore, Euronext Amsterdam proves to be an ideal place for stock listing of hedge funds managers. Amongst others, well-known hedge fund and private equity management companies like KKR took profit from these unique liberal features of the Dutch market and introduced their IPO's and listing of their hedge funds via Euronext Amsterdam, thus offering their products to a wide range of international investors. More alternatives managers are likely to follow.

## **8. Other major issues and developments**

DUFAS' core lobbying activities have been around the theme of improving the attractiveness of The Netherlands as a favoured domicile for asset managers and funds, attempting to attract foreign financial institutions to The Netherlands. This has entailed i.a. the international asset pooling facilities and the product developments reported on in this report. These efforts will continue.

Another pillar of activities has been assistance to DUFAS members with their efforts to comply with new rules and regulations. In this framework DUFAS has published several member documents in 2007, among others the following (Dutch language):

- A Guidance Paper on Administrative organization & internal controls and the "in-control-statement" (together with Ernst & Young accountants) for fund managers.
- A Guidance Paper on transparency rules applicable to the marketing of funds from Luxemburg, Ireland, the USA, Jersey and Guernsey (together with De Brauw Blackstone Westbroek solicitors). The complete annotated text of the new financial supervision law that has come into force on 1-1-2007 and encompasses supervision of all financial activities (Wet financieel toezicht), published by SDU Publishers.

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<sup>1</sup> Authority for the Financial Markets.